



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

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June 10, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to be "W. T. Fujioka", written over a horizontal line.

SACRAMENTO UPDATE

Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position on Legislation**

- **AB 1126 (Gordon).** This measure would establish regulatory standards for facilities that convert municipal solid waste for energy generation. Specifically, this bill would define "municipal solid waste conversion" to allow solid waste to be converted for energy generation. However, AB 1126, as currently written, contains broad definitions and would remove some incentive for jurisdictions to utilize conversion technology facilities. Unless otherwise directed by the Board, consistent with existing policy to support proposals that increase flexibility for local agencies to meet the waste reduction goals of the California Integrated Waste Management Act and other Board-approved policies, **the Sacramento advocates will support AB 1126, if amended to make changes as described below.**
- **SB 328 (Knight).** This measure would, until January 1, 2021, allow a county, with the board of supervisors' approval, to use construction manager at-risk construction contracts for erecting, constructing, altering, repairing, or improving buildings owned or leased by the county for projects in excess of

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\$1.0 million. Unless otherwise directed by the Board, consistent with existing policy to support legislation to preserve and improve the County's ability to solicit and manage construction contracts and/or job order contracts, **the Sacramento advocates will support SB 328.**

- **SB 750 (Wolk).** This measure would require that any newly constructed multi-unit residential structure that submits an application for a water connection must install submeters to measure the water supplied to each individual unit and prohibit landlords from charging tenants separately for water service unless a submetering system is installed. Unless otherwise directed by the Board, consistent with existing policy to support legislation to encourage water conservation and increase the efficiency of water use, **the Sacramento advocates will support SB 750.**

- **Status of Legislation of County Interest**

- **AB 240 (Rendon)** - related to mutual water companies and the Legislature's intent to encourage collaboration among mutual water companies that operate public water systems in the City of Maywood.

Pursuit of County Position on Legislation

AB 1126 (Gordon), which as amended on May 8, 2013, would: 1) define the term municipal solid waste (MSW) conversion to mean the conversion of solid waste through a process that meets specified requirements; 2) define municipal solid waste conversion facility to mean a facility where MSW conversion, as defined, takes place; 3) revise the definition of composting to include anaerobic digestion of organic waste; and 4) require a countywide siting element to include a description of the areas to be used for the development of adequate MSW conversion, among other provisions.

Specifically, AB 1126 defines municipal solid waste conversion or MSW conversion as the conversion of solid waste through a process that meets all of the following requirements: 1) the waste to be converted is beneficial and effective in that it replaces or supplements the use of fossil fuels; 2) the waste to be converted, the resulting ash, and any other products of conversion do not meet the criteria or guidelines for the identification of a hazardous waste adopted by the California Department of Toxic Substances Control; 3) the conversion is efficient and maximizes the net calorific value and burn rate of the waste; 4) the waste to be processed contains less than 25 percent moisture and less than 10 percent noncombustible waste; 5) the waste to be processed that is received at the facility is handled in compliance with the requirements for the

handling of solid waste imposed pursuant existing law, and no more than a seven-day supply of that waste, based on the throughput capacity of the operation or facility, is stored at the facility at any one time; and 6) no more than 500 tons per day of waste is converted at the facility where the operation takes place.

The California Integrated Waste Management Act of 1989 requires each city, county, and regional agency, if any, to divert 50 percent of all solid waste through source reduction, recycling, and composting activities from landfill disposal. The Act also allows the 50 percent diversion requirement to include not more than 10 percent through biomass conversion, which is defined as the controlled combustion of specific materials for use in producing electricity or heat.

The Department of Public Works (DPW) indicates that the County has identified anaerobic digestion as a viable technology that would be able to process organic materials as part of the County's waste management portfolio and that AB 1126 would provide benefit in that regard, as organic material sent to anaerobic digestion facilities would not be considered disposal which would incentivize jurisdictions to send such materials to these facilities. DPW also notes that because opportunities for composting in its classic sense are limited in Los Angeles County, classification of anaerobic digestion as composting would provide potential savings for the County in regards to waste management because permitting anaerobic digestion is more feasible with the County.

The Department of Public Works indicates that the provisions of AB 1126 which would streamline the countywide siting element (CSE) would provide County savings because currently the CSE amendment process takes approximately two years at a cost of more than \$250,000.

However, the Department of Public Works reports that because AB 1126 would classify all other types of conversion technologies as disposal facilities, it would remove some incentive for jurisdictions to utilize such facilities. DPW also indicates that the description of MSW conversion in the bill is very broad. According to DPW, typically the term conversion is related to non-incineration processes that convert post-recycled residuals into green fuels, clean renewable energy and other products. AB 1126 makes no distinction between conversion technologies and traditional waste-to-energy (combustion) facilities, and the bill's provisions seem to be exclusive to combustion facilities. DPW also notes that the bill arbitrarily limits facilities to processing up to 500 tons of MSW per day, which would provide nominal benefit to large jurisdictions.

This office and the Department of Public Works support AB 1126 if amended to:
1) refine the definition of municipal solid waste conversion to explicitly identify the

processes that would fall under this classification and differentiate between combustion and non-combustion processes; 2) remove provisions that are specific to combustion such as requiring maximization of the burn rate; 3) lift or significantly increase the 500 tons per day cap; and 4) ensure that recyclables are recovered for recycling prior to the conversion process.

Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals that increase flexibility for local agencies to meet the waste reduction goals of the California Integrated Waste Management Act and to support legislation which promotes the development of alternatives to landfills such as conversion technologies that protect public health and safety and the environment; clarifies the definition of conversion technologies; establishes a viable permitting process for these alternatives based on performance standards rather than prescriptive definitions; ensures alternatives to landfills qualify for renewable energy production, landfill disposal reduction and reduced carbon fuels production incentives; provides full diversion and greenhouse gas emission reduction credits for these alternatives under applicable State law; and provides that all energy produced by conversion technology facilities be designated as renewable energy, **the Sacramento advocates will support AB 1126, if amended as indicated above.**

There is currently no registered support for or opposition to AB 1126 on file.

AB 1126 passed the Assembly Floor by a vote of 78 to 0 on May 29, 2013. This measure is pending referral to a policy committee in the Senate.

SB 328 (Knight), which as amended on April 9, 2013, would authorize a county, until January 1, 2021, with approval of the board of supervisors, to utilize construction manager at-risk construction contracts for the erection, construction, alteration, repair, or improvement of any building owned or leased by the county for projects in excess of \$1.0 million. The bill would also allow a construction manager at-risk contract to be awarded using either the lowest responsible bidder or best value method and would require counties that elect to use a construction manager at-risk contract to submit a copy of the contract to the State Controller.

Existing law provides that if the estimated cost of a construction of any county building or the cost of any painting, or repairs exceeds a specified sum, the work shall be done by contract and that any such contract not let pursuant to specified provisions is void. Existing law also requires a board of supervisors to award the contract to the lowest responsible bidder or, with the approval of the board of supervisors, to utilize an alternative procedure for bidding on construction projects in the county in excess of \$2.5 million using either the lowest responsible bidder or by best value.

The Department of Public Works indicates that SB 328 would provide the County an alternative contracting option and method for delivery, in lieu of the traditional design-bid-build method and the design-build method, for projects over \$1.0 million. According to DPW, the construction manager at-risk method allows the owner of a project to retain a construction manager at-risk, who provides pre-construction services during the design period and who later becomes the general contractor during the construction process. Services provided by the construction manager at-risk may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

The Department of Public Works also indicates that the project owner has separate contracts for design services and construction services (similar to the design-bid-build method); however, the owners may establish the separate contracts at the same time, thereby allowing the design party and the construction manager at-risk to work together (similar to the design-build method). Before construction can begin on a project, the owner and construction manager at-risk must agree on either a fixed price or a guaranteed maximum price for the project. DPW notes that the construction manager at-risk is responsible for delivering the project within the agreed upon price, thereby assuming the risk for cost-overruns.

This office and the Department of Public Works support SB 328. Therefore, unless otherwise directed by the Board, consistent with existing policy to support legislation to preserve and improve the County's ability to solicit and manage construction contracts and or job orders, **the Sacramento advocates will support SB 328.**

SB 328 is sponsored by the County of San Bernardino, and supported by the County of Stanislaus, Rural County Representatives of California, and Urban Counties Caucus. There is currently no registered opposition to the measure.

SB 328 passed the Senate Floor by a vote of 37 to 0 on April 29, 2013. The bill is scheduled for a hearing in the Assembly Local Government Committee on June 12, 2013.

SB 750 (Wolk), which as amended on May 24, 2013, would: 1) require that any newly constructed multi-unit residential and mixed-use residential and commercial structure that submits an application for a water connection after January 1, 2014 must install submeters to measure the water supplied to each individual unit; 2) prohibit landlords from charging tenants separately for water service unless a submetering system is installed; 3) provide instruction to landlords on how to charge tenants for submetered water service; and 4) specify the information that must be disclosed to tenants if the landlord intends to charge tenants separately for water service.

Existing law requires every water purveyor to require, as a condition of new water service on and after January 1, 1992, the installation of a water meter to measure water service. The law also requires urban water suppliers to install water meters on all municipal and industrial service connections and to charge each customer based on actual volume of water delivered as measured by those water meters. Existing law generally imposes certain requirements on landlords and tenants. Among these requirements, existing law requires landlords to provide tenants with certain notices or disclosures pertaining to, among other things, gas meters.

The Department of Public Works reports that SB 750 would encourage water conservation and increase the efficiency of water use by informing tenants of apartments and other multi-unit dwellings an accurate accounting of their water consumption on a monthly or bi-monthly basis. The provisions of the bill also shift responsibility for installing, owning, certifying, maintaining, reading, billing and testing of the water submeters for each individual dwelling unit within the a multi-family building from the water purveyors to the property owner or landlord.

Support for SB 750 is consistent with the County's support of AB 19 (Fong) of 2011, a substantially similar bill, and AB 1975 (Fong) of 2010, which would have required the Department of Housing and Community Development to adopt building standards requiring the installation of individual water meters or submeters in newly constructed multi-unit residential buildings. AB 19 died in the Assembly Housing and Community Development Committee and AB 1975 died in the Senate Appropriations Committee.

This office and the Department of Public Works support SB 750. Therefore, unless otherwise directed by the Board, consistent with existing policy to support legislation to encourage water conservation and increase the efficiency of water use, **the Sacramento advocates will support SB 750.**

SB 750 is sponsored by California Rural Legal Assistance Foundation, Natural Resources Defense Council, and Western Center on Law and Poverty. The bill is supported by: the California League of Conservation Voters; California Water Association; Clean Water Action; East Bay Municipal Utility District, Environmental Defense Fund; Housing Long Beach; Legal Aid Foundation of Los Angeles; Long Beach Water Department; Planning and Conservation League; Sierra Club California; Sonoma County; Sonoma County Water Agency; and U.S. Green Building Council. SB 750 is opposed by: the Apartment Association of Greater Los Angeles; California Apartment Association; California Association of Realtors; California Building Industry Association; Utility Conservation Coalition; Utility Management and Conservation Association, among others.

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SB 750 passed the Senate Floor by a vote of 27 to 11 on May 29, 2013. This measure is pending referral to a policy committee in the Assembly.

Status of Legislation of County Interest

AB 240 (Rendon), which as introduced on February 5, 2013, would declare the intent of the Legislature to encourage collaboration among the three separate mutual water companies that serve the City of Maywood, was amended on June 5, 2013.

As amended, the bill would now also require: 1) a mutual water company that operates a public water system to comply with the Ralph M. Brown Act and the California Public Records Act; 2) the board of the mutual water company to adopt, in an open meeting, an annual budget on or before the start of each fiscal year; 3) the board of a mutual water company that operates a public water system to contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the mutual water company, and would require the report to be filed as a public record and be sent to the State Controller and any customer of the mutual water company that submits a written request to the board. AB 240 is scheduled for a hearing in the Senate Governance and Finance Committee on June 12, 2013.

We will continue to keep you advised.

WTF:RA
MR:AO:lm

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants